most significant."); NYC Triathlon, 704 F. Supp. 2d at 341 (citing Mobil Oil Corp. v. Pegasus Petrol. Corp., 818 F.2d 254, 258 (2d Cir. 1987)).

B. Irreparable Harm to Plaintiff Absent Injunctive Relief

"A showing of irreparable harm is 'the single most important prerequisite for the issuance of a preliminary injunction.'" Faiveley Transp. Malmo AB v. Wabtec Corp., 559 F.3d 110, 118 (2d Cir. 2009) (quoting Rodriguez v. DeBuono, 175 F.3d 227, 234 (2d Cir. 1999)). "To satisfy the irreparable harm requirement, plaintiff[] must demonstrate that absent a preliminary injunction [it] will suffer an injury that is neither remote nor speculative, but actual and imminent, and one that cannot be remedied if a court waits until the end of trial to resolve the harm." Id. (alterations and internal quotation marks omitted). Furthermore, a plaintiff must show "that there is a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages cannot provide adequate compensation." Kamerling v. Massanari, 295 F.3d 206, 214 (2d Cir. 2002) (internal quotation marks omitted).

"Irreparable harm exists in a trademark case when the party seeking the injunction shows that it will lose control over the reputation of its trademark . . . because loss of control over one's reputation is neither 'calculable nor precisely compensable.'" U.S. Polo Ass'n, Inc. v. PRL USA Holdings Inc., 800 F. Supp. 2d 515, 540 (S.D.N.Y. 2011); NYC Triathlon, 704 F. Supp. 2d at 343 ("Prospective loss of . . . goodwill alone is sufficient to support a finding of irreparable harm.") (citing Tom Doherty Ass'n v. Saban Entm't, Inc., 60 F.3d 27, 37-38 (2d Cir. 1995)). Plaintiff has invested substantial effort and resources in developing the goodwill associated with the Juicy Marks. Defendants' infringement in the United States puts that goodwill at risk by limiting Plaintiff's ability to control its brand. See Stern's Miracle-Gro Prods., Inc. v. Shark Prods., Inc., 823 F. Supp. 1077, 1094 (S.D.N.Y. 1993) (plaintiff's expenditure of $100 million establishing its brand contributed to potential hardship if defendant was not enjoined from further use of the "Miracle Gro" mark); Bulman, 882 F. Supp. 2d at 564 (likelihood of "future confusion" and "prospective loss of goodwill" despite no claim of "lost business, sales or revenues" sufficient to establish irreparable harm). Furthermore, although irreparable harm may not be presumed upon a showing of likelihood of success on the merits, see eBay Inc. v. MercExchange, LLC, 547 U.S. 388, 393 (2006), a party's demonstration of a likelihood of success on an infringement claim often foretells a finding of irreparable harm. See Marks Org., 784 F. Supp. 2d at 334 ("[A]lthough a likelihood of confusion does not create a presumption of irreparable injury, a particularly strong likelihood of confusion should weigh in favor of finding irreparable injury."). The Court finds that to be the case here.

Defendants argue that Plaintiff's delay in seeking a preliminary injunction precludes a finding of irreparable harm. Delay in seeking a preliminary injunction can weaken a claim of irreparable harm because "the failure to act sooner undercuts the sense of urgency that ordinarily accompanies a motion for preliminary relief." Tough Traveler, Ltd. v. Outbound Prods., 60 F.3d 964, 968 (2d Cir. 1995). Prior to the Second Circuit's decision in Salinger, a finding of delay defeated the presumption of irreparable harm. See, e.g., Weight Watchers Int'l. Inc. v. Luigino's, Inc., 423 F.3d 137, 144 (2d Cir. 2005). Now that courts may not presume irreparable harm, however, the effect of a finding of delay is uncertain. See Marcy Playground, Inc. v. Capitol Records, Inc., 6 F. Supp. 2d 277, 282 (S.D.N.Y. 1998) ("[T]he Court of Appeals has not yet held that unexcused delay alone necessarily defeats a preliminary injunction motion."); New Look, 2012 WL 251976, at *10 ("[Delay] is now simply one factor to be considered in determining whether a plaintiff will, in fact, suffer irreparable harm in the absence of a preliminary injunction."); Marks Org., 784 F. Supp. 2d at 333 ("[Salinger] leaves open the question of what effect Plaintiff's delay should have on the Court's determination of irreparable injury."). Courts recognize, however, that a plaintiff's good faith efforts to investigate infringement can justify delay. Tough Traveler, 60 F.3d at 968.

Plaintiffs have known about Defendants' sales to the United States since at least July 16, 2012 and perhaps as early as April 2012. (Tarbutton Decl. ¶ 26; Defs.' Opp'n 9.) Plaintiff represents that from this time until the filing of the motion it was continuing to investigate the extent of Defendants' domestic activities. (Pl.'s Reply 2.) While Plaintiff's delay may call into question its sense of urgency, the Court does not find the amount of time Plaintiff took to move for preliminary relief to be unreasonable. See, e.g., Bulman, 882 F. Supp. 2d at 564-65 (delay of several months did not preclude finding of irreparable harm); Marks Org., 784 F. Supp. 2d at 332-36 (granting preliminary injunction despite nearly sixteen-month delay between learning of infringing conduct and filing of motion).

C. Balancing the Hardships

A court must also "consider the balance of hardships between the plaintiff and defendant and issue the injunction only if the balance of hardships tips in the plaintiff's favor." Salinger, 607 F.3d at 80. If Defendants continue to sell their products in the United States, Plaintiff faces potential loss of sales, goodwill and control over its reputation. By contrast, enjoining Defendants from using the Juicy Marks in connection with sales or advertising in the United States would not present significant hardship because their current sales in the United States are minimal, particularly in comparison to their sales in Hong Kong, Macao, and the People's Republic of China. Such an injunction would not affect the mainstay of Defendants' business.

Thus, the balance of hardships tips in Plaintiff's favor with regard to a carefully tailored injunction.[7]

D. Public Interest

Finally, the Court must "ensure that the 'public interest would not be disserved' by the issuance of a preliminary injunction." Salinger, 607 F.3d at 80 (quoting eBay, 547 U.S. at 391). The Second Circuit has long held that there is a "strong interest in preventing public confusion." ProFitness Phys. Therapy Ctr. v. Pro-Fit Ortho. and Sports Phys. Therapy P.C., 314 F.3d 62, 68 (2d Cir. 2002). Plaintiff has established that Defendants' actions are likely to cause consumer confusion. Therefore, the public interest would not be disserved by the issuance of a preliminary injunction.

* * *

In sum, Plaintiff has demonstrated that (1) it is likely to succeed on the merits of its trademark infringement claim; (2) it is likely to suffer irreparable harm in the absence of an injunction; (3) the balance of hardships tips in its favor; and (4) the public interest will not be disserved by the issuance of an injunction. Accordingly, injunctive relief is appropriate. The remaining question, however, is the proper scope of that injunction.

IV. Extraterritorial Application of the Lanham Act

Defendants argue that this action "is predicated on a false premise that this Court has jurisdiction over [Defendants'] Hong Kong website www.juicygirl.com.hk based on the *de*

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[7] The analysis is quite different with regard to Plaintiff's request for an injunction disabling Defendants' domain names that are hosted in Hong Kong. Defendants' business in Asia, which earned nearly $13 million in 2011, in contrast to the approximate $3,000 worth of sales made to the United States, depends significantly on the use of its HK Website. (Suen Decl. ¶ 31.) The Court is convinced that disabling Defendants' HK Website would cause great hardship to Defendants. In light of the Court's ruling that the Lanham Act should not be extraterritorially applied, however, the hardship of disabling the HK Website need not be addressed at this time.

minimis sales made to the United States." (Defs.' Opp'n 18.) They argue that the broad injunction Plaintiff seeks requires the improper extraterritorial application of the Lanham Act.

It is well-established that United States courts have jurisdiction to apply the Lanham Act to allegedly infringing conduct occurring outside the United States when necessary to prevent harm to United States commerce. See Steele v. Bulova Watch Co., 344 U.S. 280, 285-86 (1952) (affirming an injunction prohibiting a U.S. citizen from selling fake watches in Mexico in part because such sales adversely affected the trademark holder in America). In Vanity Fair Mills, Inc. v. T. Eaton Co., 234 F.2d 633 (2d Cir. 1956), the Second Circuit articulated three factors to consider when determining whether the Lanham Act should be applied to extraterritorial conduct: (1) whether the defendant is a United States citizen; (2) whether there exists a conflict between the defendant's trademark rights under foreign law and the plaintiff's trademark rights under domestic law; and (3) whether the defendant's conduct has a substantial effect on United States commerce. Id. at 642; Atl. Richfield Co. v. ARCO Globus Int'l Co., 150 F.3d 189, 192 (2d Cir. 1998). "[T]he absence of one of the above factors might well be determinative," and the absence of two "is certainly fatal." Vanity Fair, 234 F.2d at 643; see also Totalplan Corp. of Am. v. Colborne, 14 F.3d 824, 831 (2d Cir. 1994) (observing that the absence of two factors "is fatal to an argument that the conduct is governed by the Lanham Act"). "[C]ourts are to balance the factors in deciding whether the 'contacts and interests of the United States are sufficient to support the exercise of extraterritorial jurisdiction.'" Software AG Inc. v. Consist Software Solutions, Inc., No. 08 Civ. 389 (CM), 2008 WL 563449, at *14 (S.D.N.Y. Feb 21, 2008) (quoting Warnaco, Inc. v. VF Corp., 844 F. Supp. 940, 950 (S.D.N.Y. 1994)).

While several provisions of Plaintiff's proposed injunction do not implicate principles of extraterritoriality, Plaintiff seeks, *inter alia*, an order that would disable the HK Website, which